

# Exhibit 11

CONFIDENTIAL - ATTORNEYS' EYES ONLY  
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

NIKE, INC., :  
Plaintiff, : Case No. 22-cv-983  
:  
v. :  
STOCKX LLC, :  
Defendant. :  
----- :

VIDEOTAPE DEPOSITION OF:  
DAVID T. NEAL, Ph.D.  
NEW YORK, NEW YORK  
FRIDAY, AUGUST 11, 2023

REPORTED BY:  
SILVIA P. WAGE, CCR, CRR, RPR  
JOB NO. 5968173

<p style="text-align: right;">Page 2</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2</p> <p>3</p> <p style="text-align: center;">AUGUST 11, 2023</p> <p>4 10:08 a.m.</p> <p>5 Videotape deposition of DAVID NEAL,</p> <p>6 Ph.D., held at the offices of DLA PIPER LLP, 1251</p> <p>7 Avenue of the Americas, 27th Floor, New York, New</p> <p>8 York, pursuant to agreement before SILVIA P.</p> <p>9 WAGE, a Certified Shorthand Reporter, Certified</p> <p>10 Realtime Reporter, Registered Professional</p> <p>11 Reporter, and Notary Public for the States of New</p> <p>12 Jersey, New York and Pennsylvania.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 I N D E X</p> <p>3 WITNESS: DAVID T. NEAL, Ph.D. PAGE</p> <p>4 EXAMINATION BY MS. DUVDEVANI 8</p> <p>5 EXAMINATION BY MS. SABA 154</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 NO. DESCRIPTION PAGE</p> <p>9 Exhibit 1 Expert Rebuttal Report of 26</p> <p>10 David Neal, Ph.D., in</p> <p>11 Response to Expert Report</p> <p>12 of Dr. Itamar Simonson</p> <p>13 Exhibit 2 blown up revised version of 26</p> <p>14 Exhibit C</p> <p>15 Exhibit 3 Exhibit C: Neal Survey and 27</p> <p>16 Codebook</p> <p>17 Exhibit 4 Errata to the Expert 33</p> <p>18 Rebuttal Report of David T.</p> <p>19 Neal June 23, 2023</p> <p>20 Exhibit 5 color printout of an NFT 50</p> <p>21 Exhibit 6 color printout of a white 63</p> <p>22 leather Nike sneaker</p> <p>23 Exhibit 7 color printout of XNFTs 70</p> <p>24 Collect What's Next</p> <p>25 NIKE0000055 to NIKE0000058</p> <p>Exhibit 8 color printout from StockX 78</p> <p>Exhibit 9 document STX0018615 marked 91</p> <p>Highly Confidential -</p> <p>Attorneys' Eyes Only</p> <p>Exhibit 10 color printout from StockX 121</p> <p>PREVIOUSLY MARKED EXHIBITS</p> <p>NO. DESCRIPTION PAGE</p> <p>none</p>
<p style="text-align: right;">Page 3</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 DLA PIPER LLP (US)</p> <p>5 Attorneys for Plaintiff</p> <p>6 1251 Avenue of the Americas, 27th Floor</p> <p>7 New York, New York 10020-1104</p> <p>8 (212) 335-4500</p> <p>9 Tamar.duvdevani@dlapiper.com</p> <p>10 Jane.wise@us.dlapiper.com</p> <p>11 BY: TAMAR DUVDEVANI, ESQ.</p> <p>12 BY: JANE WISE, ESQ.</p> <p>13</p> <p>14 DEBEVOISE &amp; PLIMPTON LLP</p> <p>15 Attorneys for Defendants</p> <p>16 919 Third Avenue</p> <p>17 New York, New York 10022</p> <p>18 (212) 909-6000</p> <p>19 Ksaba@debevoise.com</p> <p>20 BY: KATHRYN SABA, ESQ.</p> <p>21</p> <p>22 KILPATRICK TOWNSEND &amp; STOCKTON LLP</p> <p>23 Attorneys for Defendants</p> <p>24 The Grace Building</p> <p>25 1114 Avenue of the Americas</p> <p>New York, New York 10036</p> <p>(212) 775-8700</p> <p>Rpotter@kilpatricktownsend.com</p> <p>BY: ROBERT POTTER, ESQ.</p> <p>A L S O P R E S E N T:</p> <p>PHIL GLAUBERSON</p> <p>VIDEOGRAPHER</p>	<p style="text-align: right;">Page 5</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 - - -</p> <p>3 DEPOSITION SUPPORT INDEX</p> <p>4 - - -</p> <p>5</p> <p>6 Direction to Witness Not to Answer</p> <p>7 Page Line</p> <p>8</p> <p>9 Request for Production of Documents</p> <p>10 Page Line</p> <p>11 151 3</p> <p>12 Stipulations</p> <p>13 Page Line</p> <p>14</p> <p>15 Question Marked</p> <p>16 Page Line</p> <p>17</p> <p>18 Reservation</p> <p>19 Page Line</p> <p>20 150 14</p> <p>21 Motion to Strike</p> <p>22 Page Line</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 THE VIDEOGRAPHER: Good morning. We</p> <p>3 are going on the record at 10:08 a.m., 8/11/23.</p> <p>4 Please note that microphones are</p> <p>5 sensitive and may pick up whispering and private</p> <p>6 conversations.</p> <p>7 Please mute your phones at this time</p> <p>8 and place them away from the microphones, as they</p> <p>9 can interfere with the audio.</p> <p>10 Audio and video recording will</p> <p>11 continue to take place unless all parties agree</p> <p>12 to go off the record.</p> <p>13 This is Media Unit 1 of the video</p> <p>14 recorded deposition of David Neal in the matter</p> <p>15 of Nike Inc., versus StockX LLC filed in the</p> <p>16 United States District Court, Southern District</p> <p>17 of New York, 22-CV-983.</p> <p>18 The location of this deposition is</p> <p>19 DLA Piper LLP, 1251 Avenue of the Americas, New</p> <p>20 York, New York.</p> <p>21 My name is Phil Glauberson</p> <p>22 representing Veritext and I AM the Videographer.</p> <p>23 The Court Reporter is Silvia Wage</p> <p>24 from Veritext.</p> <p>25 I am not authorized to administer an</p>	<p style="text-align: right;">Page 8</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 Vilabella Avenue, Coral Gables, Florida</p> <p>3 33146-1719, after having been duly sworn,</p> <p>4 was examined and testified as follows:</p> <p>5 THE STENOGRAPHER: Thank you.</p> <p>6 You may proceed.</p> <p>7 EXAMINATION BY MS. DUVDEVANI:</p> <p>8 Q. Good morning, Dr. Neal.</p> <p>9 A. Good morning.</p> <p>10 Q. It's Doctor, right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Are you represented today?</p> <p>13 A. I am.</p> <p>14 Q. And who are you represented by?</p> <p>15 A. Kate Saba from Debevoise and Rob</p> <p>16 Potter from Kilpatrick Townsend.</p> <p>17 Q. Okay. Did you do anything to prepare</p> <p>18 for today's deposition?</p> <p>19 A. I did.</p> <p>20 Q. And what did you do?</p> <p>21 A. I reviewed a number of documents</p> <p>22 including my report, Dr. Simonson's report, his</p> <p>23 second report, i.e., his rebuttal report. I also</p> <p>24 re-reviewed the Complaint and the Answer and</p> <p>25 certain other documents, I believe, I did a high</p>
<p style="text-align: right;">Page 7</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 oath. I am not related to any party in this</p> <p>3 action. Nor am I financially interested in the</p> <p>4 outcome.</p> <p>5 If there are any objections to</p> <p>6 proceeding, please state them at the time of your</p> <p>7 appearance.</p> <p>8 Counsel will now state their</p> <p>9 appearances and affiliations for the record</p> <p>10 beginning with the noticing attorney.</p> <p>11 MS. DUVDEVANI: Good morning. Tamar</p> <p>12 Duvdevani, DLA Piper on behalf of Plaintiff Nike</p> <p>13 Inc.</p> <p>14 I am joined by my colleague Jane Wise</p> <p>15 also of DLA Piper.</p> <p>16 MS. SABA: Good morning. Kate Saba</p> <p>17 of Debevoise &amp; Plimpton on behalf of StockX. I'm</p> <p>18 joined by my co-counsel Rob Potter of Kilpatrick</p> <p>19 Townsend.</p> <p>20 THE VIDEOGRAPHER: Will the Court</p> <p>21 Reporter please swear in the witness.</p> <p>22 THE STENOGRAPHER: Dr. Neal, if you</p> <p>23 can please raise your right hand.</p> <p>24 DAVID T. NEAL, Ph.D.,</p> <p>25 Catalyst Behavioral Sciences LLC, 615</p>	<p style="text-align: right;">Page 9</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 level review of yesterday.</p> <p>3 Q. When you refer to the "Complaint" and</p> <p>4 an "Answer," do you mean the First Amended</p> <p>5 Complaint and the First Amended Answer that</p> <p>6 included the additional false advertising and</p> <p>7 counterfeiting claims?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. You've been deposed before?</p> <p>10 A. Correct.</p> <p>11 Q. So you know the rules?</p> <p>12 A. I do.</p> <p>13 Q. Okay. The only thing I'll just</p> <p>14 remind you of is that I'll try to speak clearly</p> <p>15 for the Court Reporter and not speak over you.</p> <p>16 And I just ask you to do the same.</p> <p>17 A. Okay.</p> <p>18 Q. Okay.</p> <p>19 A. Could I request that we make -- get</p> <p>20 it a little bit cooler?</p> <p>21 Q. I --</p> <p>22 A. We just walked -- I know you're</p> <p>23 probably -- but we just walked over here, so I'm</p> <p>24 a little hot.</p> <p>25 Q. I already asked the reception --</p>

<p style="text-align: right;">Page 42</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 Q. Did you go onto OpenSea.com and</p> <p>3 search there?</p> <p>4 A. I don't recall.</p> <p>5 Q. Do you know what "OpenSea" is?</p> <p>6 A. No.</p> <p>7 Q. Alright. If you can turn to Page 24</p> <p>8 of Exhibit F to your report.</p> <p>9 A. You said Exhibit F?</p> <p>10 Q. Yes, sir; Page 24.</p> <p>11 A. Okay, I have it.</p> <p>12 Q. And, by the way, am I right that</p> <p>13 Pages 24 through 26 show the test images</p> <p>14 respondents would have seen?</p> <p>15 A. Let me just create some space here,</p> <p>16 sorry.</p> <p>17 Q. Sure.</p> <p>18 A. And, sorry, can you just repeat your</p> <p>19 question?</p> <p>20 Q. Sure.</p> <p>21 I asked, am I right that Pages 24</p> <p>22 through 26 show the test image respondents would</p> <p>23 have seen in your survey?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Where did you take this image</p>	<p style="text-align: right;">Page 44</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 definition, if from anywhere?</p> <p>3 A. That is my understanding from reading</p> <p>4 the Complaint and the First Amended Complaint and</p> <p>5 the First Amended Answer. Primarily from there I</p> <p>6 would say.</p> <p>7 Q. Okay. You did mention the NFT aspect</p> <p>8 of this offer, correct?</p> <p>9 A. I did.</p> <p>10 Q. Okay. Do you know who created the</p> <p>11 NFT that's part of this offer?</p> <p>12 A. I do not know the answer to that.</p> <p>13 Q. Okay. Do you know if it was Nike?</p> <p>14 A. I believe it was not Nike.</p> <p>15 Q. Okay. Do you believe that it was</p> <p>16 StockX?</p> <p>17 A. That's my understanding. But I don't</p> <p>18 have technical certainty around that and that was</p> <p>19 not -- knowing that technical background, I don't</p> <p>20 think is relevant for the survey that I was</p> <p>21 conducting, which is focused on what consumers</p> <p>22 perceive.</p> <p>23 Q. Uh-huh.</p> <p>24 How did StockX communicate to</p> <p>25 consumers that it was offering Vault NFTs of the</p>
<p style="text-align: right;">Page 43</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 from?</p> <p>3 A. Directly from the StockX website.</p> <p>4 Q. Okay. So does this image show</p> <p>5 something that StockX is offering for sale?</p> <p>6 MS. SABA: Objection.</p> <p>7 A. I believe it's no longer offering any</p> <p>8 Vault NFTs or there was any key Vault NFTs.</p> <p>9 Q. Okay. Does this image show something</p> <p>10 that StockX had offered for sale in the past?</p> <p>11 A. That's my understanding, yes.</p> <p>12 Q. Okay. What is being offered for sale</p> <p>13 in this image?</p> <p>14 A. Well, I should, you know, note that</p> <p>15 I'm not a technical expert and I'm not a relevant</p> <p>16 likely purchaser in this category.</p> <p>17 But if you're asking me what the</p> <p>18 offering is --</p> <p>19 Q. Correct.</p> <p>20 A. -- my understanding is the offering</p> <p>21 is -- of the Vault NFT is -- involves a</p> <p>22 combination of the physical shoe and the NFT,</p> <p>23 which serves as a digital receipt recording</p> <p>24 ownership of that object.</p> <p>25 Q. And where did you get that</p>	<p style="text-align: right;">Page 45</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 ilk that we see on this image?</p> <p>3 MS. SABA: Objection.</p> <p>4 A. I think that's outside of the scope</p> <p>5 of my opinion, if you're asking me about how</p> <p>6 StockX markets these products.</p> <p>7 Q. Sure. We can start there.</p> <p>8 A. I think that's outside the scope of</p> <p>9 my opinion.</p> <p>10 Q. Okay.</p> <p>11 A. Cause I'm not a marketing expert. I</p> <p>12 haven't studied their marketing channels. So I</p> <p>13 don't -- yeah, I don't feel like I have the</p> <p>14 technical background to answer that question.</p> <p>15 Q. Okay. Do you know why consumers</p> <p>16 purchased StockX Vault NFTs?</p> <p>17 A. Again, I did not study that. I was</p> <p>18 here to design a rebuttal survey to measure</p> <p>19 confusion and a confusion survey does not delve</p> <p>20 into the motives of consumers. It focuses on</p> <p>21 whether they are confused or not.</p> <p>22 Q. Okay. If we could go to Page 73 of</p> <p>23 your report.</p> <p>24 A. Okay. Which...</p> <p>25 Q. Exhibit 1, main body.</p>

<p style="text-align: right;">Page 134</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 Nike word mark is retained is as part of the</p> <p>3 description of the product -- and that, as I</p> <p>4 understand it, I believe, it's from Paragraph 80</p> <p>5 of the Amended Complaint -- makes reference to</p> <p>6 the StockX's acceptable or, apparently,</p> <p>7 acceptable use of Nike on receipts as describing</p> <p>8 Nike physical products.</p> <p>9 Q. Let's go to Page 65 of your report,</p> <p>10 Paragraph 6.11.</p> <p>11 I believe this is what you were just</p> <p>12 talking about, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 A. This is one section of my report that</p> <p>16 relates to that. I believe there is an earlier</p> <p>17 section as well.</p> <p>18 Q. Okay. Does 6.11 explain why you used</p> <p>19 the control imagery that you used?</p> <p>20 A. In part.</p> <p>21 Q. Okay. Where else does it explain why</p> <p>22 you used the control imagery you used that you</p> <p>23 and your graphic designer created seen on Page 31</p> <p>24 of Exhibit F to your report?</p> <p>25 A. I believe it starts -- there is a</p>	<p style="text-align: right;">Page 136</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 does not object to.</p> <p>3 Q. And you understand that based on</p> <p>4 Paragraph 80 of the First Amended Complaint; is</p> <p>5 that right?</p> <p>6 A. That's one of the bases. I need to</p> <p>7 go back and see if there are other sections of</p> <p>8 the First Amended Complaint that referred to</p> <p>9 that.</p> <p>10 Q. Okay. Are there any other bases</p> <p>11 listed in your report other than Paragraph 80 of</p> <p>12 the First Amended Complaint?</p> <p>13 A. I'd need to go through line by line</p> <p>14 to verify, but that's the only one that comes to</p> <p>15 mind now.</p> <p>16 Q. Okay. Does a control stimulus need</p> <p>17 to be non-infringing?</p> <p>18 A. Yes, in the sense that it needs to</p> <p>19 remove whatever is the alleged source of the</p> <p>20 infringement. So the control should remove as</p> <p>21 little as possible and yet still remove what is</p> <p>22 alleged to be the source of infringement. And,</p> <p>23 in that sense, it should be non-infringing with</p> <p>24 respect to whatever is the alleged cause of</p> <p>25 confusion.</p>
<p style="text-align: right;">Page 135</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 similar -- let me just have a look.</p> <p>3 Paragraph 2.1.3.</p> <p>4 Q. Okay. Paragraph 2.1.3, let's get</p> <p>5 there.</p> <p>6 A. It's on Page 6.</p> <p>7 Q. Page 6; okay.</p> <p>8 A. And 2.1.4, also, includes some of --</p> <p>9 StockX's argumentation that's relevant to the</p> <p>10 control as well.</p> <p>11 Q. Okay.</p> <p>12 A. And then the third element that I</p> <p>13 mentioned was Dr. Simonson's own view of the</p> <p>14 proper control. So his control removed, as mine</p> <p>15 did, the image of the Nike shoe, including the</p> <p>16 Nike Swoosh, and retained use of the Nike word</p> <p>17 mark, as part of the overall control stimulus</p> <p>18 that was presented.</p> <p>19 So I would say in designing my</p> <p>20 control, I'm relying, you know -- or I'm relying</p> <p>21 primarily on the First Amended Complaint and on</p> <p>22 StockX's Answer, as captured in part by</p> <p>23 Paragraph 2.14 in my report, and the fact that we</p> <p>24 need to have some way to describe the product at</p> <p>25 issue to identify it, which I understand Nike</p>	<p style="text-align: right;">Page 137</p> <p>1 CONFIDENTIAL - ATTORNEYS' EYES ONLY</p> <p>2 Q. Would it be proper to have a control</p> <p>3 stimulus that demonstrated 100 percent base</p> <p>4 confusion in responses?</p> <p>5 A. That's -- that was unrelated and,</p> <p>6 therefore, unrelated to trademark confusion?</p> <p>7 Q. If your control just showed a hundred</p> <p>8 percent of people being confused, even about the</p> <p>9 control, would that be appropriate?</p> <p>10 A. Well, you'd have to -- it would</p> <p>11 depend on what the category was. So you could</p> <p>12 imagine -- let me give you an extreme example.</p> <p>13 You can imagine that Tide detergent, you know,</p> <p>14 was -- tried to sue someone for using a "T"</p> <p>15 related word for detergent and the container was</p> <p>16 also orange. You might get -- and you changed</p> <p>17 the "T" to something else but you kept the orange</p> <p>18 container. You might get high confusion in the</p> <p>19 control but driven by the orange color.</p> <p>20 Or another example would be if</p> <p>21 confusion in a category is just extremely high</p> <p>22 for reasons unrelated to trademark confusion,</p> <p>23 then you can get very high confusion levels. But</p> <p>24 it's in a control group. And what that tells you</p> <p>25 is that there is high confusion in that category</p>

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1 CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Media Unit 3. Going off the record at 2:15.

3 (Recess taken 2:15 to 2:31 p.m.)

4 THE VIDEOGRAPHER: We're back on the

5 record at 2:31. This will begin Media Unit

6 No. 4.

7 MS. DUVDEVANI: Okay. Subject to my

8 prior reservation and subject to any redirect, I

9 have no further questions.

10 MS. SABA: I do have a few redirect

11 questions.

12 EXAMINATION BY MS. SABA:

13 Q. Earlier you were asked about your

14 perception involving NFTs.

15 Have you ever purchased a NFT?

16 A. No.

17 Q. Are you likely to purchase an NFT?

18 A. No.

19 Q. Have you ever purchased collectible

20 sneakers?

21 A. No, I have not.

22 Q. Are you likely to purchase

23 collectible sneakers?

24 A. No.

25 Q. I have no further questions.

Page 155

1 CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: I was going to ask

3 those questions and I skipped them.

4 I have no further questions either.

5 THE VIDEOGRAPHER: This will end

6 Media Unit No. 4 and conclude the deposition of

7 David Neal. We are going off the record at

8 8/11/23.

9 (Time noted: 2:31 p.m.)

10

11 \_\_\_\_\_

12 DAVID T. NEAL, Ph.D.

13

14 Subscribed and sworn to before me

15

16 this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

17

18 \_\_\_\_\_

19 Notary Public

20

21

22

23

24

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Page 156

1 CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 CERTIFICATE OF REPORTER

3 I, SILVIA P. WAGE, a Certified Shorthand

4 Reporter, Certified Realtime Reporter and Registered

5 Reporter, hereby certify that the witness in the

6 foregoing deposition was by me duly sworn to tell

7 the truth, the whole truth, and nothing but the

8 truth in the within-entitled cause; that said

9 deposition was taken down in shorthand by me, a

10 disinterested person, at the time and place

11 therein stated, and that the testimony of the

12 said witness was thereafter reduced to typewriting,

13 by computer, under my direction and supervision;

14 that before completion of the deposition, review

15 of the transcript [X] was [ ] was not requested.

16 If requested, any changes made by the deponent

17 (and provided to the reporter) during the period

18 allowed are appended hereto.

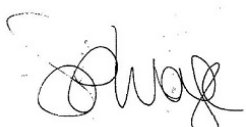
19 I further certify that I am not of counsel

20 or attorney for either or any of the parties to

21 the said deposition, nor in any way interested in

22 it \_\_\_\_\_ that I am not

23 \_\_\_\_\_ thereto.

24 

25

Page 157

1 ERRATA SHEET

2 VERITEXT/NEW YORK REPORTING, LLC

3

4 CASE NAME: Nike, Inc. v. Stockx, LLC

5 DATE OF DEPOSITION: August 11, 2023

6 WITNESS' NAME: David T. Neal, Ph.D.

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PAGE/LINE(s)/	CHANGE	REASON
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1

2 DAVID T. NEAL, Ph.D.

3

4 Subscribed and Sworn To

5 Before Me This \_\_\_\_\_ Day

6 of \_\_\_\_\_, 20 .

7

8 \_\_\_\_\_

9 Notary Public

10 My Commission Expires \_\_\_\_\_

**Deposition Date: 8/11/2023****Deponent: David Neal, Ph.D. – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
12:18	It'll come to me in a second.	Judge Paul S. Diamond of the Eastern District of Pennsylvania.	Clarification
13:8	<b>Childs</b> Hooker	<b>Charles</b> Hooker	Transcription Error
18:22-23	they, essentially, are a provider of the software, the online platform and we program that	they, essentially, are a provider of the software—the online platform—and we program that	Typographical Error
20:4-5	<b>I</b> need to go back and check my records.	<b>I'd</b> need to go back and check my records.	Transcription Error
21:11	used commonly by panel companies	used commonly <b>now</b> by panel companies	Transcription Error
22:11	<b>screen</b> questions	<b>screening</b> questions	Transcription Error
23:6	collectible <b>issue</b> purchases	collectible <b>shoe</b> purchasers	Transcription Error
24:15-16	I'm not aware of <b>the</b> source of data that would speak to that.	I'm not aware of <b>a</b> source of data that would speak to that.	Transcription Error
28:18	Well, <b>I</b> need to check	Well, <b>I'd</b> need to check	Transcription Error



**Deposition Date: 8/11/2023****Deponent: David Neal, Ph.D. – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
31:2-3	of anything else that I reviewed that is <b>in the same combat.</b>	of anything else that I reviewed that is <b>missing from that.</b>	Transcription Error
32:14	I do respect.	I do respect <b>him.</b>	Transcription Error/Clarification
34:14	they're mine	they're <b>minor</b>	Transcription Error
36:12-13	people call them data dictionary.	people call them <b>a</b> data dictionary.	Transcription Error
40:8	ensure <b>a</b> quality data	ensure quality data	Transcription Error
40:22	at least, two <b>other.</b>	at least, two <b>others.</b>	Transcription Error
41:7	I personally <b>used</b>	I personally <b>use</b>	Transcription Error
43:7-8	I believe it's no longer offering any Vault NFTs or <b>there was any key</b> Vault NFTs.	I believe <b>that</b> it's no longer offering any Vault NFTs or <b>at least any Nike</b> Vault NFTs	Transcription Error
48:14-16	Please carefully review the website, just as <b>if you would</b> considering purchasing one or more of the items shown.	Please carefully review the website, just as you would <b>if you were</b> considering purchasing one or more of the items shown.	Transcription Error

**Deposition Date: 8/11/2023****Deponent: David Neal, Ph.D. – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
48:19-22	Well, I don't think I said the description -- <b>they're</b> screening questions <b>that</b> are also, I think, relevant to what we're talking about here	Well, I don't think I said. <b>The</b> description -- <b>the</b> screening questions are also, I think, relevant to what we're talking about here	Transcription Error
50:11-12	allowed for people <b>who</b> enter the survey	allowed for people <b>to</b> enter the survey	Transcription Error
50:13-15	already had or intended to buy an NFT, specifically, corresponding to a physical pair of shoes	already had or intended to buy an NFT specifically corresponding to a physical pair of shoes	Typographical Error
54:22	likelihood confusion survey	likelihood <b>of</b> confusion survey	Transcription Error
55:4-5	the <b>question</b> should get at	the <b>questions</b> should get at	Transcription Error
55:10-11	that at a minimum to be plausibly <b>clarified</b> as a potential purchaser in this	that at a minimum, to be plausibly <b>classified</b> as a potential purchaser in this	Transcription Error
57:25	brand <b>verse</b> like an embellishment	brand <b>versus</b> like an embellishment	Transcription Error
58:13-14	I just haven't run a <b>survey</b> on that	I just haven't run a <b>study</b> on that	Transcription Error

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Page(s): Line(s)	Now Reads	Should Read	Reason
62:14-16	So this is a case where I was a rebuttal expert <b>but</b> Adidas America and Adidas v. Fashion Nova.	So this is a case where I was a rebuttal expert <b>for</b> Adidas America and Adidas v. Fashion Nova.	Clarification
63:15	<b>or Bate Stamp.</b>	<b>And it's not Bates Stamped.</b>	Transcription Error
68:17-18	is, <b>you know</b> , the only product to legibly show the Nike word mark	is, <b>I think</b> , the only product to legibly show the Nike word mark	Transcription Error
68:19-20	is one of only <b>of</b> a small number	is one of only a small number	Transcription Error
69:11-12	<b>No</b> , let me see. It was part of the imagery presented.	<b>Umm</b> , let me see. <b>Or as</b> part of the imagery presented.	Transcription Error
69:12	<b>I</b> need to	<b>I'd</b> need to	Transcription Error
69:18	StockX offered Vault NFTs	StockX offered <b>eight</b> Vault NFTs	Transcription Error
71:11-13	Are you asking me is the underlying shoe included in each of these NFTs and Nike shoe?	Are you asking me "is the underlying shoe included in each of these NFTs <b>a</b> Nike shoe?"	Typographical Error /Transcription Error

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Page(s): Line(s)	Now Reads	Should Read	Reason
72:10	Retro Manière, I'm not sure <b>that</b> that is a brand	Retro <b>A Ma</b> Manière, I'm not sure <b>if</b> that is a brand	Transcription Error
73:9	it will encourage <b>several</b> respondents	it will encourage <b>survey</b> respondents	Transcription Error
73:23	<b>every ready</b> -type surveys	<b>Eveready</b> -type surveys	Typographical Error
74:2-3	Nike puts out product	Nike puts out <b>the</b> product	Transcription Error
74:19	It's more than it's not current	It's more than <b>that</b> it's not current	Transcription Error
76:13-14	had not been through an error updated.	had not been, through an error, updated.	Typographical Error
78:14-15	To the extent that <b>answer is off</b> conversations with Counsel	To the extent that <b>answers call for</b> conversations with Counsel	Transcription Error
82:7	a standard <b>every ready</b>	a standard <b>Eveready</b>	Typographical Error
82:8-9	to use in these <b>certain</b> circumstances	to use in these circumstances	Transcription Error

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<b>Page(s): Line(s)</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
82:11-13	I am aware of significant complexities around the resale context <b>and</b> that <b>raised</b> serious questions	I am aware of significant complexities around the resale context that <b>raise</b> serious questions	Transcription Error/Clarification
82:13-14	<b>ever ready</b>	<b>Eveready</b>	Typographical Error
82:15	<b>biassed</b>	<b>biased</b>	Typographical Error
82:24	<b>every ready</b> survey	<b>Eveready</b> survey	Typographical Error
83:4-5	<b>every ready</b>	<b>Eveready</b>	Typographical Error
83:10	<b>ever ready</b>	<b>Eveready</b>	Typographical Error
83:12-13	<b>ever ready</b>	<b>Eveready</b>	Typographical Error
83:16-17	<b>ever ready</b>	<b>Eveready</b>	Typographical Error
83:18	<b>ever ready</b>	<b>Eveready</b>	Typographical Error
83:19	<b>every ready</b>	<b>Eveready</b>	Typographical Error
83:23	<b>ever ready</b>	<b>Eveready</b>	Typographical Error

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Page(s): Line(s)	Now Reads	Should Read	Reason
83:25-84:4	he decided only the source questions were relevant after the fact abandoned analyzing the data from the second and third <b>question</b> .	he decided <b>that</b> only the source questions were relevant after the fact, <b>and</b> abandoned analyzing the data from the second and third <b>questions</b> .	Transcription Error
84:8	<b>ever ready</b>	<b>Eveready</b>	Typographical Error
86:6-7	<b>I</b> need to check the complaint	<b>I'd</b> need to check the complaint	Transcription Error
86:16	testimony for "How It Works" page	testimony for <b>the</b> "How It Works" page	Transcription Error
87:22	<b>disclaimer</b> language	<b>disclosure</b> language	Transcription Error
90:4-5	that is not a standard part of <b>a</b> reporting a confusion survey	that is not a standard part of reporting a confusion survey	Clarification
90:14-15	For the reasons we've been <b>discussion</b>	For the reasons we've been <b>discussing</b>	Transcription Error
90:23-24	look exactly <b>at</b> past purchasers	look exactly <b>like</b> past purchasers	Transcription Error
93:8-9	where the <b>data comes</b> from	where the <b>data's come</b> from	Transcription Error

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Page(s): Line(s)	Now Reads	Should Read	Reason
93:19	to use Click Balancing approach	to use <b>the</b> Click Balancing approach	Transcription Error
93:23	past purchases of Vault NFTs.	past purchasers of Vault NFTs.	Transcription Error
93:25	potential purchases	potential purchasers	Transcription Error
94:5-6	You <b>buy [sic]</b> people interested in that category of goods.	You <b>recruit</b> people interested in that category of goods.	Clarification
94:9-13	So -- and the lack of specificity, you know, there are more -- much more likely to be young and under 35 or does that mean you make 80 percent of your sample under 35 or does that mean you make 50 percent of your sample under 35.	So -- and the lack of specificity, you know, “there are more -- much more likely to be young and under 35,” <b>well</b> , does that mean you make 80 percent of your sample under 35 or does that mean you make 50 percent of your sample under 35?	Transcription Error
97:3	<b>I</b> need to check	<b>I’d</b> need to check	Transcription Error
98:22	<b>biassing</b>	<b>biasing</b>	Typographical Error
100:18-19	the general principle is <b>you</b> replicating marketplace <b>realities</b> , as much possible.	the general principle is replicating marketplace <b>reality</b> as much possible.	Transcription Error

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Page(s): Line(s)	Now Reads	Should Read	Reason
100:19-20	I can't say that <b>that</b> , for example	I can't say that, for example	Transcription Error
104:7-8	marketplace <b>realty</b>	marketplace <b>reality</b>	Transcription Error
104:11	I <b>can</b> you	I <b>can't remember whether</b> you	Transcription Error
105:25-106:2	where did <b>respondent</b> see any information	where did <b>respondents</b> see any information	Transcription Error
109:20	Q3 <b>tough sell</b>	Q3 <b>test cell</b>	Transcription Error
110:10	see back of product service	see back of product/service	Typographical Error
110:23	But I looked at afterwards	But I looked at <b>it</b> afterwards	Transcription Error
111:10-11	I need to go back and check the programming <b>link notes</b> to know that for sure.	I'd need to go back and check the programming <b>language</b> notes to know that for sure.	Transcription Error/Clarification
113:2-3	you talking about consumers in the real world.	<b>are</b> you talking about consumers in the real world?	Transcription Error
119:4-5	Generally, looking at all the images of the <b>products</b> page <b>and</b> the <b>tests</b> and the	Generally, looking at all the images of the <b>product</b> page <b>in</b> the <b>test</b> and the	Transcription Error



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Page(s): Line(s)	Now Reads	Should Read	Reason
121:13	I gest.	I <b>jest</b> .	Typographical Error
121:18	I gest.	I <b>jest</b> .	Typographical Error
122:15-18	I don't -- I would need to check, but I don't believe these product detail information was part of the product display page at the time I took this screen shot.	I don't -- I would need to check, but I don't believe <b>this</b> product detail information was part of the product display page at the time I took this screen shot.	Transcription Error
123:18	“product <b>detail s</b> ”	“product <b>details</b> ”	Typographical Error
125:3-4	the evidence from the people who viewed the back of the card suggest that it has little impact.	the evidence from the people who viewed the back of the card <b>would</b> suggest that it has little impact.	Transcription Error
126:24-25	there are two ways <b>that are</b> disclaimers are present on this page.	there are two ways <b>the</b> disclaimers are present on this page.	Transcription Error
127:15	disclaimer makes the consumer perception <b>worst</b> .	disclaimer makes the consumer perception <b>worse</b>	Transcription Error
128:16-17	A "double-blind study" is <b>an</b> , essentially, a method of running a survey where	A "double-blind study" is essentially a method of running a survey where	Transcription Error

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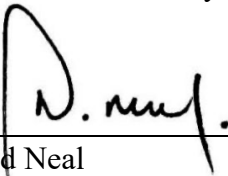
Page(s): Line(s)	Now Reads	Should Read	Reason
128:23	<b>unbiased</b>	<b>unbiased</b>	Typographical Error
129:11-12	Is it possible for a survey design to provide <b>includes</b> to <b>our</b> participant	Is it possible for a survey design to provide <b>clues</b> to a participant	Transcription Error
129:25-130:2	that <b>bias there</b> answers	that <b>biased their</b> answers	Transcription Error /Typographical Error
134:5-6	makes reference to <b>the</b> StockX's	makes reference to StockX's	Clarification
134:7	use of Nike on receipts	use of “Nike” on receipts	Typographical Error
136:6-7	<b>I</b> need to go back	<b>I’d</b> need to go back	Transcription Error
138:17	Plaintiff's <b>mark</b> on the Vault NFT	Plaintiff's <b>marks</b> on the Vault NFT	Transcription Error
138:25-139:2	<b>cause</b> what does he remove?	<b>because</b> what does he remove?	Transcription Error
139:3	the <b>work</b> mark Nike	the <b>word</b> mark Nike	Transcription Error
139:10	he describes as a token	he describes <b>it</b> as a token	Transcription Error
141:3	drop down list of <b>yours</b>	drop down list of <b>years</b>	Transcription Error

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<b>Page(s): Line(s)</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
142:11	having <b>giving</b> inconsistent answers	having <b>given</b> inconsistent answers	Transcription Error
149:18	to not <b>giving</b> you a coding	to not <b>give</b> you a coding	Transcription Error
150:15	I am going to reserve time <b>and</b> potentially <b>to</b> call you again	I am going to reserve time <b>to</b> potentially call you again	Transcription Error
152:14	those <b>tends</b> to be very short	those <b>tend</b> to be very short	Transcription Error

I, David Neal, Ph.D., do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on August 11, 2023; that I have made such corrections as appear noted herein; and that my testimony as contained herein, as corrected, is true and correct.

DATED this 14th day of September, 2023.

  
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 David Neal